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E.O. 12958: N/A
TAGS: ECPS ECON ETRD PGOV FR
SUBJECT: FRANCE'S MOBILE OPERATORS FACE ALLEGATIONS OVER PRICE-FIXING; ECONOMY MINISTER UNDER SUSPICION

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¶1. (SBU) SUMMARY. France's three main mobile telephone operators (Orange, SFR and Bouygues) are being investigated by the government's Fraud Office for anticompetitive practices. If found guilty by France's Competition Council of a concerted effort to fix calling rates from 1997 to 2003, they could face fines of up to 10 percent of their respective annual revenues. A decision by the Council is expected before the end of the year, according to the August 24 issue of "Le Canard Enchaine", the French satirical and investigative weekly that made the ongoing government investigation public. The weekly hints at least some involvement by former France Telecom CEO and current Economy Minister Thierry Breton, which could spell trouble for the minister and the government. END SUMMARY.

¶2. (SBU) The investigation results from an original complaint by French consumer group UFC-Que Choisir in February 2002. The consumer association noted that each mobile operator had adopted "strictly identical rates." An investigation carried out by the Economy and Finance Ministry's Competition, Consumer Affairs and Fraud Office (DGCCRF) documented the allegations further, according to "Le Canard Enchaine" in its August 24 issue. In its May 2004 report, the Fraud Office found memos and minutes of "secret regular meetings" between the three operators to allow them to be more reactive to market changes. (Note: Orange is owned by France Telecom, Bouygues is privately-owned, and SFR is owned jointly by Vodafone and Vivendi.)

¶3. (SBU) "Le Canard" cites many of the operators' documents which were never intended to be "communicated to outsiders, either to ART, the French telecoms regulatory authority or to the Economy and Finance Ministry." The documents further point to the minutes of an October 28, 2002 meeting between the three operators, in the presence of then- France Telecom CEO Thierry Breton. During that meeting, the CEO of FT's mobile unit Orange allegedly referred to the "Yalta of market share" agreed by the three operators. An earlier note claims that Breton's predecessor Michel Bon had given a green light to the secret agreement.

¶4. (SBU) Finally, according to the press reports, the investigation carried out by the Fraud Office concluded the (tortured?) reasoning behind the alleged collusion : to keep financially ailing Bouygues afloat in order to prevent FT's Orange market share from crossing the watershed 49.6 percent mark, at which point the regulator would be required to step in and set prices. The Fraud Office's report allegedly quotes Thierry Breton as using this explanation in a meeting it documents. FT allegedly feared that if Bouygues went bankrupt, most of its customers would move to Orange.

¶5. (SBU) Breton, who was CEO from October 2003 to 2005, before being named Economy and Finance Minister, shepherded France Telecom's gradual transformation from a state-controlled company to one where the GOF owns approximately 39 percent. Mobile operator Orange was a publicly trade company in 2000 when France Telecom acquired it from Vodafone, in a deal approved by European Commission authorities. Under Breton's tenure, FT bought back all outstanding shares of the company.

¶6. (U) Breton and other ministry officials categorically deny these allegations. Breton says the facts being investigated took place before he took over at FT, and added that France's three mobile phone operators "would have to be punished" should any evidence of a price-fixing agreement be found.

COMMENT

¶7. (SBU) In the short-term, the allegations against Breton could weaken the minister's personal efforts to push for tax

reform in the fall, and could distract public and press from Prime Minister de Villepin's singular focus on employment. If it mushrooms, a highly visible scandal involving Breton (France's fourth Economy minister in two years) could be politically damaging for the Chirac government. A scandal involving one of the new government's leading ministers would certainly provide the deeply divided Socialist Party with one thing to agree on. (In parliament next week there will be no lack of socialist lambasting of price fixing by capitalist fat cats). Chirac's other rivals and their supporters are also lining up to take political advantage of the government's weaknesses. The knives may be even sharper next week as much of France returns to work and school.

HOFMANN